

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2129 of 1991

Date of decision: 9-5-97

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

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| 1. Whether Reporters of Local papers may be allowed to see the judgment? | Yes |
| 2. To be referred to the Reporter or not? | Yes |
| 3. Whether their Lordships wish to see the fair copy of the judgment? | No |
| 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder? | No |
| 5. Whether it is to be circulated to the Civil Judge? | No |

YOGENDRA K PANDIT

Versus

STATE OF GUJARAT

Appearance:

MR DP VORA for Petitioners

Ms. P.S. Parmar for Respondent No. 1

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision:9-5-97

CAV JUDGEMENT

The petitioners filed this petition praying for direction to the respondents to give them the benefit of pension as per Government Resolution dated 14th August,

1984, as granted to other employees who retired on or after 1-8-1982.

2. In para 3 of the petition the petitioners have given out statement showing the period of their service and the respective dates of retirement. The institution, namely, the Training Centre for Adult Deaf / School for deaf mutes, Ahmedabad, where the petitioners were working as teachers, was receiving 100 per cent grant from the State Government. Under notification dated 14th August, 1984 it has been decided that the employees of this institution will get pensionary benefits. These benefits were extended only to those employees who retired on or after 1-8-1982. The petitioners have retired much earlier to the aforesaid date.

3. I do not find any arbitrariness in fixing the cut off date for giving pension to those employees who retired on or after 1-8-1982. The decision of the Hon'ble Supreme Court in the case of D.S. Nakara vs. Union of India, reported in 1983 SC 130 is of little help to the petitioners in view of the decision of the Hon'ble Supreme Court in the case of Mafatlal Group Staff Association vs. Regional Provident Fund Commissioner (1994) 4 SCC 58. The counsel for the petitioner has placed much emphasis on the fact that some of the employees of the institution, though have attained the age of superannuation on 1-8-1982, were continued on extension of service for giving the benefit of pension scheme, which makes hostile discrimination. I do not find any substance in this contention of the counsel for the petitioners. Those are the persons who have retired on 31st July, 1982 and have been granted extension in service with previous approval. Those persons are of different class than the class to which the petitioners belong. They were in service on the given date and in case the benefit of pension is given to those persons it cannot be said that any hostile discrimination is made.

4. In the result this special civil application fails and the same is dismissed. Rule discharged. No order as to costs.

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